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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,305	11/09/2001	Ruth Lipman	LIPM-3298	1972

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EXAMINER

COE, SUSAN D

ART UNIT

PAPER NUMBER

1654

DATE MAILED: 04/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/035,305

Applicant(s)

LIPMAN, RUTH

Examiner

Susan Coe

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

1. The amendment filed January 27, 2003, has been received and entered. The text of those sections of Title 35, U.S. Code, not included in this action can be found in a prior Office action.
2. Claims 1-20 are pending.
3. In Paper No. 5, dated October 8, 2002, applicant elected with traverse Group I, claims 1-12, onion for species A, and lecithin for species B.
4. Claims 5 and 13-20 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected inventions and species, there being no allowable generic or linking claim.
5. Claims 1-4 and 6-12 are examined on the merits.

### ***Claim Rejections - 35 USC § 102***

6. Claims 1, 2, 4, 6, 8, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Japanese Pat. Appl. No. 1-139515 A for the reasons set forth on page 4 of the previous Office action.

All of applicant's arguments regarding this ground of rejection have been fully considered but are not persuasive. Applicant argues that JP '515 does not teach the claimed invention because the reference does not teach applying an extract of onion to the exposes surface of a substrate. However, the reference teaches applying a composition containing an onion powder to garbage to repel animals. An onion powder is considered to be an extract of onion.

***Claim Rejections - 35 USC § 103***

7. Claims 1-4 and 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pat. No. 5,417,973 in view of US Pat. No. 4,965,070 for the reasons set forth on page 5 of the previous Office action.

All of applicant's arguments regarding this ground of rejection have been fully considered but are not persuasive. Applicant argues that there is no motivation to combine US '973 and US '070 because US '973 teaches repelling animals from a carcass while US '070 teaches repelling animals from a plant. However, both references are concerned with the same problem, repelling animals from food sources. Therefore, they are considered to be in the same field of invention. A person of ordinary skill in the art would reasonably expect that a combination of the ingredients would serve to repel animals from food sources. Since both references teach ingredients that are known to be used as an animal repellant, it would be obvious to combine the ingredients together.

8. Claims 1-3, 7, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Pat. Appl. No. 1-139515 A in view of US Pat. No. 4,965,070 for the reasons set forth on page 6 of the previous Office action.

All of applicant's arguments regarding this ground of rejection have been fully considered but are not persuasive. Applicant argues that there is no motivation to combine the references because JP '515 teaches repelling animals from garbage while US '070 teaches repelling animals from a plant. However, both references are concerned with the same problem, repelling animals from food sources. Therefore, they are considered to be in the same field of invention. A person of ordinary skill in the art would reasonably expect that a combination of

the ingredients would serve to repel animals from food sources. Since both references teach ingredients that are known to be used as an animal repellant, it would be obvious to combine the ingredients together.

9. No claims are allowed.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Coe whose telephone number is (703) 306-5823. The examiner can normally be reached on Monday to Thursday from 8:00 to 5:30 and on alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, can be reached on (703) 306-3220. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Susan Coe, Examiner

April 16, 2003



LEON B. LANKFORD, JR.  
PRIMARY EXAMINER